

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

LARRY SEVENSKI,

Plaintiff,

No. 1:18-cv-01204

v.

HON. JANET T. NEFF

BROCK ARTFITCH, in his
individual and official capacity,

Defendant.

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**DEFENDANT'S ANSWER TO COMPLAINT AND JURY
DEMAND WITH AFFIRMATIVE DEFENSES**

Defendant, Brock Artfitch, by and through counsel, answers
Plaintiff's Complaint and Jury Demand, by like-numbered paragraphs
as follows:

1. In response to the allegations in paragraph 1 of Plaintiff's complaint, Defendant neither admits nor denies the allegations because he lacks knowledge or information sufficient to form a belief as to their truth.
2. In response to the allegations in paragraph 2 of Plaintiff's complaint, Defendant admits the allegations.
3. In response to the allegations paragraph 3 of Plaintiff's complaint, Defendant denies the allegations as untrue.
4. In response to the allegations in paragraph 4 of Plaintiff's complaint, Defendant denies the allegations as untrue.
5. In response to the allegations in paragraph 5 of Plaintiff's complaint, Defendant does not contest this Court's subject matter jurisdiction but Defendant does deny that Plaintiff has any viable claims.
6. In response to the allegations in paragraph 6 of Plaintiff's complaint, Defendant denies the allegations as untrue.

FACTS

7. Defendant incorporates all prior responses.

8. In response to the allegations in paragraph 8 of Plaintiff's complaint, Defendant admits the allegations.
9. In response to the allegations in paragraph 9 of Plaintiff's complaint, Defendant admits the allegations.
10. In response to the allegations in paragraph 10 of Plaintiff's complaint, Defendant admits the allegations.
11. In response to the allegations in paragraph 11 of Plaintiff's complaint, Defendant denies the allegations as untrue. In further response, Defendant states that Plaintiff advanced towards Defendant, refused to comply with verbal directions, stated he (Plaintiff) wished he had a weapon, and made a fist in preparation to punch Defendant.
12. In response to the allegations in paragraph 12 of Plaintiff's complaint, Defendant admits the same but objects to this paragraph omitting the relevant context.
13. In response to the allegations in paragraph 13 of Plaintiff's complaint, Defendant admits the same but objects to this paragraph omitting the relevant context.

14. In response to the allegations in paragraph 14 of Plaintiff's complaint, Defendant denies that he "threw" Plaintiff to the ground. Defendant admits using a straight arm bar takedown in response to Plaintiff's active aggression and threatening behavior.
15. In response to the allegations in paragraph 15 of Plaintiff's complaint, Defendant admits the allegations.
16. In response to the allegations in paragraph 16 of Plaintiff's complaint, Defendant denies the allegations as untrue.

COUNT I
VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983 EXCESSIVE FORCE

17. Defendant incorporates all prior responses.
18. In response to the allegations in paragraph 18 of Plaintiff's complaint, Defendant admits the allegations.
19. In response to the allegations in paragraph 19 of Plaintiff's complaint, Defendant denies the allegations as untrue.
20. In response to the allegations in paragraph 20 of Plaintiff's complaint, Defendant denies the allegations as untrue.

21. In response to the allegations in paragraph 21 of Plaintiff's complaint, Defendant denies the allegations as untrue.

22. In response to the allegations in paragraph 22 of Plaintiff's complaint, Defendant denies the allegations as untrue.

Defendant respectfully requests that this Court dismiss all claims and grant any other appropriate relief to Defendant.

DEFENDANT'S RELIANCE UPON JURY DEMAND

Defendant relies upon the jury demand filed in this matter and will pay any fee upon proper notification by the Court.

AFFIRMATIVE DEFENSES

1. Some or all of Plaintiff's losses and damages, if any, were caused by Plaintiff's own conduct or the conduct of others and not attributable to Defendant.

2. Defendant is entitled to qualified immunity or other immunity granted by federal law.

3. To the extent that Plaintiff attempts to bring claims against Defendant in his official capacity, the Eleventh Amendment bars such claims.

4. Defendant objects to any failure by Plaintiff to join all claims and parties required to be joined.

5. Defendant reserves the right to raise further defenses or assert other matters revealed by continuing investigation and discovery, including all defenses available under Federal Rules of Civil Procedure 12 and 56, upon the completion of discovery and as the Court permits.

Respectfully submitted,

Bill Schuette
Attorney General

/s/John G. Fedynsky
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December 28, 2018

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of December, 2018, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such.

/s/John G. Fedynsky
John G. Fedynsky
Assistant Attorney General
Attorney for Defendant